

WHEREAS, the tentative settlement also provides for the reforestation of the Plaintiff's property by their arborist subsequent to the City's completion of its sewer infrastructure repair and site grading work;

WHEREAS, Plaintiffs have agreed to accept from the City the payment of \$43,000 to cover certain costs expended by the Plaintiffs in connection with the damage they allege the City caused to their property and to further cover the services of an arborist to reforest the Plaintiffs' Property once the City's sewer infrastructure repair and site grading work is completed;

WHEREAS, the City Attorney considers it to be desirable and in the best interests of the City to resolve this matter and the Lawsuit and recommends that the City pay the amount of \$43,000 to the Plaintiffs to settle all claims of the Plaintiffs against the City arising out of the facts alleged in the Lawsuit;

NOW THEREFORE, IT IS RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA AS FOLLOWS:

SECTION 1. The City Attorney is authorized to settle the case of Nick Symbas and Alice Symbas v. City of Atlanta; Superior Court of Fulton County, Georgia; Civil Action File No. 2001CV45856, for the sum of Forty-Three Thousand Dollars (\$43,000).

SECTION 2. The Chief Financial Officer is authorized to pay the total sum of \$43,000 to Nick and Alice Symbas from Account No. 2J01-529017-T31001, in exchange for the Plaintiffs' execution and delivery to the City of a Final Payment and General Release and a filed Notice of Voluntary Dismissal With Prejudice.

A RESOLUTION

BY THE PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

**A RESOLUTION AUTHORIZING THE SETTLEMENT OF 02- R -0449
ALL CLAIMS IN THE LAWSUIT STYLED "NICK
SYMBAS AND ALICE SYMBAS v. CITY OF ATLANTA;
SUPERIOR COURT OF FULTON COUNTY, GEORGIA;
CIVIL ACTION NO. 2001CV45856; FOR \$43,000;
AUTHORIZING THE CHIEF FINANCIAL OFFICER TO
DISBURSE THE SETTLEMENT AMOUNT FROM FUND
ACCOUNT CENTER NO. 2J01-529017-T31001; AND FOR
OTHER PURPOSES.**

WHEREAS, the lawsuit ("Lawsuit") styled "Nick Symbas and Alice Symbas v. City of Atlanta"; Superior Court of Fulton County, Georgia; Civil Action File No. 2001CV45856" arises out of a sewer infrastructure break that occurred on or in the vicinity of property ("Property") owned by Nick and Alice Symbas ("Plaintiffs"), upon which their residence is constructed and within which the City has certain sewer easement rights;

WHEREAS, Plaintiffs alleged in the Lawsuit that the City, when it entered their property to investigate and repair the sewer infrastructure break, caused damage to their property by excavating and modifying the grade of the property, destroying or irreparably damaging trees and other vegetation located on the property, infiltrating a stream located upon the property with soil erosion run-off, and causing numerous other injuries and damages, as more particularly set forth in the Complaint filed by the Plaintiffs in the Lawsuit;

WHEREAS, the Plaintiffs also asserted in the Lawsuit, and provided notice to the City's Law Department, that the City was prohibited from re-entering the Property in order to complete its repairs of the sewer infrastructure;

WHEREAS, as a result, the City has not been able to complete the repairs to the sewer infrastructure and has, instead, instituted a temporary repair involving pumping wastewater around the sewer infrastructure break;

WHEREAS, the temporary repair effectuated by the City to the sewer infrastructure break requires full time monitoring by City employees at the site, costing the City considerable additional monies;

WHEREAS, the City and the Plaintiffs have had numerous meetings and discussions concerning settlement of the Lawsuit and the City's re-access to the Property to effectuate permanent repairs to the sewer infrastructure;

WHEREAS, the City and Plaintiffs have reached a tentative settlement of the Lawsuit, as well as an agreement to allow the City to re-access the Property to complete its repair work and, as near as possible, restore the grade of the property to its original condition prior to the sewer infrastructure break;